

U.S. Department  
of Transportation  
  
United States  
Coast Guard



Commandant (G-BBS)  
United States Coast Guard

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COMDTINST 5420.18E

15 APR 1987

COMMANDANT INSTRUCTION 5420.18E

Subj: Advisory Committees; requirements for

1. PURPOSE. This Instruction provides updated policy for the management of advisory committees.
2. DIRECTIVES AFFECTED. Commandant Instruction 5420.18D is hereby cancelled.
3. BACKGROUND. Under appropriate circumstances the use of advisory committees by the Coast Guard to provide information, advice and recommendations is considered beneficial. The Federal Advisory Committee Act (5 U.S.C. Appendix I) and DOT Order 1120.3A establish policy, prescribe procedures, and assign responsibilities for the establishment and use of advisory committees by the Coast Guard.
4. DEFINITIONS.
  - a. The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, established or utilized by a Federal agency to obtain advice or recommendations and which is not composed wholly of full-time Federal Government members.
  - b. An organization existing outside of the Federal Government, which the Coast Guard uses as a source of advice or recommendation, is an advisory committee within this definition and is governed by this Instruction where appropriate. For example, only such meetings of the organization which relate to providing advice or recommendations to the Coast Guard need be announced in the Federal Register.
  - c. Categories of individuals involved with advisory committees.
    - (1) Committee Management Officer (CMO). The Chief, Office of Boating, Public, and Consumer Affairs, Commandant (G-B), is the official responsible for committee management within the Coast Guard.

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4. c. (2) Committee Sponsors. The Commandant, area and district commanders, and Headquarters' office chiefs are solely authorized to be sponsors of advisory committees.
5. EXCLUSIONS. This Instruction is not applicable to the following:
  - a. Any local, regional, or national committee whose sole function is the dissemination of information for public agencies, or to any local civic committee whose primary function is that of rendering a public service other than giving advice or making recommendations to the Government, e.g., Combined Federal Campaign.
  - b. Boards, councils, or panels which are part of the formal line or staff structure of the Coast Guard or to those personnel, appeal, or investigative boards or other similar Coast Guard boards which are generally of an ad hoc nature, or to those interagency committees composed wholly of full-time Federal Government members.
  - c. Committees or subgroups chaired by Coast Guard members when the parent organization is established by another Federal agency.
6. POLICY.
  - a. An advisory committee shall not be established nor utilized unless authorized by the Secretary.
  - b. Advisory committees shall be established only when they afford the most expeditious, economical, and appropriate means for accomplishing the intended purpose. The committee effort must be capable of providing added strength, objectivity, and confidence to management's decision-making process.
  - c. Such a committee shall consider, investigate, or study matters of particular interest to the Coast Guard and shall present advice or make recommendations concerning these matters to a designated Coast Guard official.
  - d. All advisory committee activities and the activities of individual committee members shall be conducted affirmatively to ensure equality of opportunity for all persons and avoid even the appearance of discrimination because of race, religion, sex, national origin, or age.
  - e. Subject to the exceptions specified in paragraph 6(f), ongoing or continuing subcommittees or subgroups of an advisory committee shall be provided for either in the charter of the parent committee or in separate charters. Subcommittees or subgroups will be included in the parent charter when the charter is being renewed.

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6. f. It may be impractical to provide for certain temporary subcommittees or subgroups in the parent committee's charter, or otherwise, due to the short term of their existence. This determination, however, is to be made by the sponsor of the advisory committee. The Chairman of an advisory committee is authorized to establish temporary subcommittees or subgroups only with approval of the sponsor and only from among the membership of the parent committee. Subcommittees or subgroups shall comply with all regulations to which the parent committee is subject.

7. ESTABLISHMENT AND OPERATING PROCEDURES.

- a. Establishment Procedures. No Coast Guard-sponsored advisory committee shall be considered formally established, meet or take any action until it has been determined, after consultation with the Secretary and the Administrator, General Services Administration, that the committee is necessary and in the public interest and an advisory committee charter has been filed with Congress. The establishment of an advisory committee may be requested in the following manner:

- (1) Approximately 90 days before the requested establishment date of an advisory committee, submit the request for establishment to Commandant (G-B). Include in the request the following information:
  - (a) A statement that the committee is necessary and in the public interest and justification for this determination.
  - (b) An explanation as to why the functions of the committee cannot be performed by Coast Guard personnel at the sponsoring level or elsewhere, by another element of DOT, or by an existing committee.
  - (c) The sponsor's plans to attain balanced membership.
  - (d) Any other information which the sponsor may wish to add in support of establishment.
  - (e) A proposed membership list with a biographical statement, DOT F 1120.1, for each nominee.
- (2) Attach to the request a proposed committee charter complying with DOT Order 1120.3A.
- (3) Upon receiving notice from the DOT CMO that establishment is authorized, the Chief, Office of Boating, Public, and Consumer Affairs shall:
  - (a) Prepare a "Notice of Establishment" for publication in the Federal Register 15 days before the filing of the committee charter with Congress.

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7. a. (3) (b) Return the approved charter to the requesting area/district commanders or chiefs of offices in Headquarters.
- b. Membership. The Secretary has reserved the right to approve the appointment of all members to advisory committees. As discussed in paragraph 7.a.(1)(e), proposed membership lists and biographical statements for each prospective member shall accompany requests for establishment or renewal. Upon approval, actual appointment letters may be sent by the appropriate committee sponsor. Requests for additional membership requirements resulting from resignations or various other reasons will be processed in the above manner and submitted to Commandant (G-B) 90 days prior to effective date of appointment. The term of any member may be extended until the date on which the successor's appointment is effective.
- c. Pay for members of an advisory committee. An agency may not fix the pay of the members of an advisory committee at a rate higher than the daily equivalent of the maximum rate for GS-18.
- d. Meetings. The following provisions shall apply to all Coast Guard-sponsored advisory committee meetings:
  - (1) There shall be designated by the sponsor of each committee an officer or employee of the Coast Guard to chair or attend each meeting of the advisory committee. An advisory committee shall not hold any meetings except at the call, or with the advance approval of, this designated officer or employee, with an agenda formulated or approved by him or her. Should this person not be the chair of an advisory committee, he or she will be the committee's executive director. The officer or employee so designated is authorized, whenever he or she determines it to be in the public interest, to adjourn any meeting. Also, an advisory committee shall not conduct any meeting in the absence of its designated official unless this individual cannot for some reason be present. In this event, the committee's sponsor will designate another officer or employee as a substitute.
  - (2) Each meeting shall be open to the public. Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, and meetings shall be held at reasonable times and places accessible to the public in an adequate room. A committee may establish procedures requiring that persons who desire to present oral statements obtain advance approval for such participation. Participation by members of the public in meetings or questioning of committee members or other participants may not be permitted except in accordance with procedures established by the committee.
  - (3) The provisions concerning open meetings and public participation shall not apply to any advisory committee, or portions thereof, if

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- 7.d.(3)(cont'd) an advance written determination is made by the Secretary that the meeting will be concerned with matters listed in Title 5, U.S.C. 552 b. Sponsors seeking such a determination shall submit their request and full documentation to the Commandant (G-B) no less than 45 days before the meeting is scheduled.
- (4) Timely notice of all meetings of advisory committees or subcommittees must be published in the Federal Register, and, where appropriate, by press releases and notices by mailings to interested parties. Approximately 45 days (but no less than 30 days) prior to a committee meeting, a notice of such meeting shall be forwarded to Commandant (G-B) for publication in the Federal Register. An original and two copies are required. The notice shall contain the purposes and activities of the committee and indicate time, date, place and summarized agenda of the meeting. This notice will be signed by the sponsor or Chairman of the committee.
- e. Records. Detailed minutes shall be kept of each advisory committee meeting. The minutes shall include: The time and place of the meeting; a list of advisory committee members and staff and agency employees present at the meeting; a complete summary of matters discussed and conclusions reached; copies of all reports received, issued, or approved by the advisory committee; a description of the extent to which the meeting was open to the public; and a description of public participation, including a list of members of the public who presented oral or written statements and an estimate of the number of the public who attended the meeting. The Chairman of the advisory committee shall certify to the accuracy of the minutes. Subject to Title 5, U.S.C. 552, the records, reports, minutes, agenda, etc., shall be made available for public inspection at a single location until the committee ceases to exist. A copy of each meeting's minutes will be forwarded to Commandant (G-B).
- f. Reports.
- (1) An annual report on Federal Advisory Committees, as required by Section 6(c) of the Federal Advisory Committee Act, shall be prepared and forwarded to Commandant (G-B), along with any other documents or background papers considered appropriate. In addition, an Annual Federal Advisory Committee Review will be made and results forwarded to Commandant (G-B). Sponsors will be provided with appropriate reporting instructions before the submission date.
- (2) Section 13 of the Act requires that each advisory committee shall file with the Library of Congress at least eight copies of each report made and, where appropriate, background papers prepared by consultants. Ten copies of any report issued by an advisory committee shall be forwarded to Commandant (G-B).

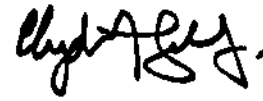
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7.f.(2)(cont'd) for the required filing with the Library of Congress and distribution to Department CMO.

- (3) An advisory committee which has held closed or partially closed meetings shall issue a report annually summarizing its activities which are informative to the public consistent with the policies of 5 U.S.C. 552(b). Notice of availability of this report shall be published in the Federal Register not later than 60 days after its completion. The notice shall contain information as to its availability to the public.
  - (4) Unless prior concurrence is given by the Chief Counsel, advisory committees shall not receive, compile, or discuss data or reports concerning matters which would be covered by exemptions b(4) or b(6) of the Freedom of Information Act, 5 U.S.C. 552(b)(4) or (6), which deal with matters that are trade secrets, and commercial or financial information obtained from a person and which is privileged or confidential, and information the release of which would constitute a clearly unwarranted invasion of personal privacy. Further, no personal information shall be received, compiled, or discussed unless done in compliance with the Privacy Act, 5 U.S.C. 552a, and the Department's regulation found in 49 C.F.R. Part 10.
- g. Antitrust Laws. The activities of advisory committees are subject to the antitrust laws and committee members are not immune from those laws. Industry representatives and Government personnel officially connected with advisory committees should be made aware of the application of the antitrust laws by the sponsor. Should any specific question arise concerning any particular plan or course of action, the question should be referred to the Chief Counsel.
- h. Termination and Renewal.
- (1) An advisory committee shall be terminated as soon as it has completed its assigned task. When the sponsor and the Commandant or Secretarial Officer have determined that an advisory committee is no longer serving the purpose for which it was established, recommendation for termination shall be made to the Secretary via the Commandant (G-B). Upon receipt of approval of such action, notice of termination shall be made to the members and others having an interest in the committee. A notice of termination also shall be published in the Federal Register. The sponsor is responsible for initiating the above actions. These procedures shall be followed for committees being terminated prior to the expiration of their charters, as well as for those which will not be renewed at the time of normal expiration.

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7. h. (2) An advisory committee whose duration has not been fixed by law or other predetermination shall terminate two years from the date of the filing of the charter unless the Secretary determines, in writing, prior to the end of the two-year period, that renewal is in the public interest. As long as the committee serves a useful purpose and its charter is renewed at the end of each two-year period, it may be referred to as a "continuing" committee. The procedures of paragraph 7.a. shall apply to requests for renewal.
- (3) Even though an advisory committee has a predetermined termination date, its charter must be renewed at the end of each two-year period if the duration extends beyond a two-year period.
8. ACTION. Area and district commanders, Headquarters' office chiefs, Commander, Coast Guard Activities Europe and unit commanding officers shall abide by the operating procedures contained in this instruction.
9. FORMS. DOT F 1120.1, Advisory Committee Candidate Biographical Information Request, may be obtained from Commandant (G-BBS).

  
L. T. LUSK, JR.  
Chief of Staff